

Senate File 2210

S-5074

1 Amend Senate File 2210 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. 135Q.1 Definitions.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Department*" means the department of inspections and
8 appeals.

9 2. "*Direct services*" means services provided to consumers
10 through person-to-person contact. "*Direct services*" excludes
11 services performed by persons in a health care entity setting
12 that do not involve the provision of any service or treatment
13 to a consumer of a health care entity. "*Direct services*" does
14 not include the practice of medicine and surgery or osteopathic
15 medicine and surgery by an individual licensed under chapter
16 148 or the practice of nursing by an advanced registered nurse
17 practitioner or an advanced practice registered nurse licensed
18 under chapter 152 or 152E.

19 3. "*Health care employment agency*" or "*agency*" means an
20 agency that contracts with a health care entity in this state
21 to provide agency workers for temporary, temporary-to-hire,
22 direct hire, or other contract or employee placements.

23 4. "*Health care employment agency worker*" or "*agency worker*"
24 means an individual who contracts with or is employed by a
25 health care employment agency to provide direct services or
26 nursing services to health care entity consumers.

27 5. "*Health care entity*" means a licensed or certified
28 facility, organization, or agency operated to provide services
29 and supports to meet the health or personal care needs of
30 consumers.

31 6. "*Managing entity*" means a business entity, owner,
32 ownership group, chief executive officer, program
33 administrator, director, or other decision maker whose
34 responsibilities include directing the management or policies
35 of a health care employment agency. "*Managing entity*" includes

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1 an individual who, directly or indirectly, holds a beneficial
2 interest in a corporation, partnership, or other business
3 entity that constitutes a managing entity.

4 7. "*Nursing services*" means those services which may be
5 provided only by or under the supervision of a nurse. "*Nursing*
6 *services*" does not include the practice of nursing by an
7 advanced registered nurse practitioner or an advanced practice
8 registered nurse licensed under chapter 152 or 152E.

9 Sec. 2. NEW SECTION. 135Q.2 **Health care employment agency**
10 **requirements — registration — liability — penalties.**

11 1. A health care employment agency operating in the state
12 shall register annually with the department. Each separate
13 location of a health care employment agency shall register
14 annually with and pay an annual registration fee of five
15 hundred dollars to the department. The department shall issue
16 each location a separate certification of registration upon
17 approval of registration and payment of the fee.

18 2. A health care employment agency shall do all of the
19 following:

20 a. Ensure that agency workers comply with all applicable
21 requirements relating to the health requirements and
22 qualifications of personnel in health care entity settings.

23 b. Document that each agency worker meets the minimum
24 licensing, certification, training, and health requirements
25 and the continuing education standards for the agency worker's
26 position in the health care entity setting.

27 c. Maintain records for each agency worker and report,
28 file, or otherwise provide any required documentation to
29 external parties or regulators which would otherwise be the
30 responsibility of the health care entity if the agency worker
31 was employed by the health care entity.

32 d. Maintain professional and general liability insurance
33 coverage with minimum per occurrence coverage of one million
34 dollars and aggregate coverage of three million dollars to
35 insure against loss, damage, or expense incident to a claim

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1 arising out of the death or injury of any person as the result
2 of negligence or malpractice in the provision of services by
3 the agency or an agency worker.

4 3. a. A health care employment agency shall not do any of
5 the following:

6 (1) Restrict in any manner the employment opportunities
7 of an agency worker by including a non-compete clause in any
8 contract with an agency worker or health care entity.

9 (2) In any contract with an agency worker or health care
10 entity, require payment of liquidated damages, employment fees,
11 or other compensation if the agency worker is subsequently
12 hired as a permanent employee of the health care entity.

13 b. Any contract that violates this subsection shall be
14 unenforceable in court.

15 4. A health care employment agency shall submit a report to
16 the department on a quarterly basis for each health care entity
17 participating in Medicare or Medicaid with whom the agency
18 contracts that includes all of the following by provider type:

19 a. A detailed list of the average amount charged to the
20 health care entity for each individual agency worker category.

21 b. A detailed list of the average amount paid by the agency
22 to agency workers in each individual agency worker category.

23 5. a. A health care employment agency that violates
24 subsection 1 or subsection 2 is subject to denial or revocation
25 of registration for a period of one year and a monetary penalty
26 of five hundred dollars for a first offense and five thousand
27 dollars for each offense thereafter.

28 b. A health care employment agency that violates subsection
29 3 or that knowingly provides an agency worker who has an
30 illegally or fraudulently obtained or issued diploma,
31 registration, license, certification, or background check to
32 a health care entity is subject to immediate revocation of
33 registration. The department shall notify the agency thirty
34 days in advance of the date of such revocation.

35 c. (1) The managing entity of an agency for which

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1 registration has been denied or revoked under this subsection
2 shall not be eligible to apply for or be granted registration
3 for another agency during the two-year period following the
4 date of the denial or revocation.

5 (2) The department shall not approve a new registration
6 or renew an existing registration for any agency for which
7 the managing entity is also the managing entity of an agency
8 for which registration has been denied or revoked during the
9 two-year period in which registration of the violating agency
10 is denied or revoked.

11 6. The department shall establish a system for members of
12 the public to report complaints against an agency or agency
13 worker. The department shall investigate any complaint
14 received and shall report the department's findings to the
15 complaining party and the agency involved.>

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